

**REQUEST FOR  
RECONSIDERATION  
(AFTER FINAL)**

Application #	09/211,730
Confirmation #	9527
Filing Date	December 15, 1998
First Inventor	THOMAS
Art Unit	2611
Examiner	Andrew Y Koenig
Docket #	450.241US1 (P08251US00/RFH)

Commissioner for Patents  
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S I R:

In response to the Office Action mailed on December 29, 2004, reconsideration of the rejection of claims 1-23 and 30-48, which remain pending in the application, is respectfully requested. To preliminarily summarize the issues here, in the Office Action mailed on December 29, 2004, the rejection relies on U.S. Patent 6,530,083 to Liebenow. However, under the provisions of 35 U.S.C. 103(c)(1), the Liebenow reference is disqualified as prior art against the invention claimed in the present application. Specifically, The present Application, Serial No. 09/211,730 ,and U.S. Patent 6,530,083 (Liebenow) were, at the time the invention of Application Serial No. 09/211,730 was made, owned by or subject to an obligation of assignment to common owner, Gateway, Inc.

**Rejection of Claims 1-3, 6-8, 10-11, 13-14, 16-17, 19-21, 30-32, 34-39, 42-43 and 45-48 under 35 U.S.C. § 103(a)**

Claims 1-3, 6-8, 10-11, 13-14, 16-17, 19-21, 30-32, 34-39, 42-43 and 45-48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams et al. (U.S. Pat. 5,977,964) (Williams) in view of Liebenow (U.S. Pat. 6,530,083). This rejection is respectfully traversed.

The independent claims 1, 7, 13, 19, 30, 36, 37 and 45, recite either: (i) that at least one user is already present in a viewing volume and determining whether an additional user is newly present in the viewing volume; (ii) that a plurality of users are present in a viewing volume and are identified; or (iii) that a determination is made that a user is present with at least one further user in a viewing volume. For shorthand purposes, these recitations will be referred below to as identifying more than one user present in a viewing volume. It will be appreciated that “user” can refer to a child or other sensitive viewer that has entered the viewing volume and that, in this regard, it is this “user” with which the invention is primarily concerned.

The Williams reference and the differences between that reference and the present invention were discussed in some detail in the previous responses and those discussions will not be repeated here. The Examiner appears to agree that the system of Williams is only capable of identifying a single person at a time, viz., the person that is actually interacting with the system, and has no clue whether one or more persons are in a viewing volume.

The rejection relies on the teaching of Liebenow for modification of Williams by identifying all users present in a viewing volume and providing merged settings (Liebenow: col. 5, ll. 21 – 47) in order to reduce the time spent adjusting system settings and determining optimum values for the settings and automatically adjusting the settings accordingly. However, the Liebenow reference is disqualified as prior art against the invention claimed in the present application under 35 U.S.C. 103(c)(1).

35 U.S.C. 103(c)(1) provides that, "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The present application and the Liebenow patent were, at the time the invention of the application was made, owned by or subject to an obligation of assignment to Gateway, Inc. The filing date of this application is December 15, 1998. Since the filing date of the Liebenow patent is June 19, 1998 and the issue date is March 4, 2003 (with no other publication), the Liebenow patent qualifies as prior art only under 35 U.S.C. 102(e). Thus, under 35 U.S.C. 103(c)(1), the Liebenow reference is disqualified as prior art against the invention claimed in the application.

Independent claims 1, 7, 13, 19, 30, 36, 37 and 45 all define over Williams, as Williams fails to teach or suggest a user-recognition input device as claimed that identifies more than one user present in a viewing volume, and Liebenow is disqualified as prior art. The remaining claims listed in the rejection under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Liebenow all depend from the independent claims and thus are patentable for at least the reasons set forth above in support of the patentability of the independent claims. Accordingly, it is respectfully submitted that the rejection of claims 1-3, 6-8, 10-11, 13-14, 16-17, 19-21, 30-32, 34-39, 42-43 and 45-48 can be properly withdrawn.

**B. Rejection of Claims 4-5, 9, 12, 15, 18, 22-23, 33, 40-41 and 44 under 35 U.S.C. § 103(a)**

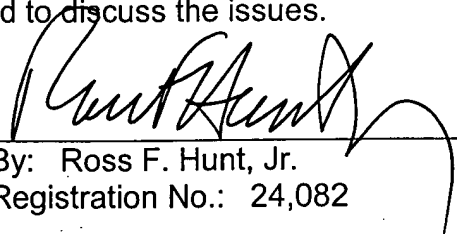
Claims 4-5, 9, 12, 15, 18, 22-23, 33, 40-41 and 44 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams and Liebenow in view of one or more of: Lu et al. (U.S. Pat. 5,977,964); Wachob (U.S. Pat. 5,231,494); Kipust (U.S. Pat. 6,002,427); or Ford (U.S. Pat. 6,181,364).

It is respectfully submitted that none of the latter patents make up the deficiencies of Williams as a reference against the claims. Thus, none of the references cited, however combined or taken together, teach or suggest a user-recognition input device identifying or determining the presence of a plurality of users present in a viewing volume. Thus, for at least the reasons discussed above, it is respectfully suggested that the rejection of claims 4-5, 9, 12, 15, 18, 22-23, 33, 40-41 and 44 can also be properly withdrawn.

**Conclusion**

It is respectfully urged that the instant application is in condition for allowance. However, if the Examiner believes that there are unresolved issues, the Examiner is respectfully invited to contact the undersigned to discuss the issues.

Date: February 16, 2005

  
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